

# Notification of change policy

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## Table of contents

1. Purpose.....	4
2. Background .....	4
3. Scope .....	4
4. Definitions .....	4
5. Legislative framework .....	5
6. Requirement for a notification of change .....	5
7. Submission of a notification of change .....	5
8. Review of a notification of change .....	6
9. ONRSR response to a notification of change.....	6
10. Ongoing compliance and enforcement .....	6
Appendix 1: Overview for determining the regulatory requirements.....	7

## 1. Purpose

The purpose of this policy is to provide direction to ONRSR staff and accredited operators on the requirements for a notification of change.

## 2. Background

The Office of the National Rail Safety Regulator (ONRSR) and the National Rail Safety Regulator (Regulator) have been established under the Rail Safety National Law (RSNL) to administer a national system of rail safety regulation.

Under the RSNL, a person must not carry out any railway operations unless the person is an accredited rail transport operator or undertakes railway operations for or on behalf of an accredited rail transport operator, or is specifically excluded or exempt from the RSNL.

The purpose of the notification of change is to inform the ONRSR of certain operational changes that are within the scope of the rail transport operator's accredited railway operations, as specified in their notice of accreditation. This helps the ONRSR to better monitor railway operations and is one aspect of regulating the management of change.

The ONRSR does not approve or reject these changes. By initially granting accreditation to a rail transport operator, the Regulator has been satisfied that the rail transport operator has the competence and capacity to manage the risks, implement the controls and manage changes associated with the railway operations for which it is accredited.

## 3. Scope

This policy applies to accredited rail transport operators planning change to their railway operations. For changes that require a variation of accreditation, operators should refer to the *ONRSR Accreditation policy*.

Information on variation of registration requirements for persons registered as managers of private sidings is in the *ONRSR Private sidings registration policy*.

This policy applies to the ONRSR and its officers including those staff operating under Service Agreements or any other such agreements or arrangements that require persons to act as an agent of the ONRSR.

## 4. Definitions

Definitions provided by the RSNL and *the Rail Safety National Law National Regulations 2012* (National Regulations) apply within this guideline.

- > **RSNL** – means the *Rail Safety National Law* which has been enacted as a Schedule to the *Rail Safety National Law (South Australia) Act 2012* (SA) as it applies in each state and territory. In Western Australia, 'RSNL' means the Rail Safety National Law which has been enacted as mirror legislation in the *Rail Safety National Law (WA) Act 2015*.
- > **National Regulations** – means the *Rail Safety National Law National Regulations 2012*; or the *Rail Safety National Law (WA) Regulations 2015* in Western Australia.

Where terms are not defined within the legislation or regulations the *Macquarie Dictionary* definition applies.

Use of the word 'should' indicates a recommendation of the ONRSR. However, the rail transport operator is free to follow a different course of action provided it complies with the legislation. Use of the word 'must' indicates a legal requirement where compliance is necessary.

## 5. Legislative framework

The RSNL was enacted as a Schedule to the application law of South Australia, as the host jurisdiction, with enabling legislation passed by each participating State and Territory. In Western Australia, the RSNL was enacted as mirror legislation. The RSNL establishes the ONRSR and the responsibilities and obligations of all persons undertaking work that affects or could affect rail safety in Australia.

Accredited operators are required to establish and maintain a safety management system under section 99 of the RSNL, which includes requirements for the management of change in Schedule 1 of the National Regulations.

Notification of change is a condition of accreditation under section 67(2)(a). The matters and timeframes which the rail transport operator must notify the ONRSR of in writing are prescribed in regulation 9 of the National Regulations.

## 6. Requirement for a notification of change

A notification of change is required for a decision or change prescribed in regulation 9, that is within the scope and nature of the operator's permitted railway operations (as specified in its Notice of Accreditation).

A change that the operator is not currently accredited for may require the submission of an application for a variation of accreditation. In some cases the change may be of the type prescribed in regulation 9 but if it is not within the scope and nature of accreditation then a variation is required.

When planning for a change in railway operations, operators should identify the regulatory requirements early on. An overview of the process for determining the regulatory requirements for the change is shown in Appendix 1.

To manage the risk of railway operations, accredited rail transport operators must implement change management processes as part of their safety management system. This must cover the requirements specified in Item 12 in Schedule 1 of the National Regulations (Management of Change). The *ONRSR Preparation of a rail safety management system guideline* provides detailed guidance on management of change and risk management principles.

## 7. Submission of a notification of change

Notifications will only be accepted using the *Notification of change form* available on the ONRSR website. Where rail transport operators have additional specific notification requirements (as a condition of their accreditation), these should be reported in the manner and form required in the notice of accreditation.

In the case of emergency, where it could not be considered reasonably practicable to meet the legislative timeframes for a notifiable change, a rail transport operator must contact the ONRSR as soon as possible.

It is expected that rail transport operators follow their risk management and management of change procedures, and they must provide assurance of this. As part of those procedures, operators should also consult so far as is reasonably practicable those parties who might be affected by the proposed change. Proper consultation with key stakeholders about proposed changes will ensure that a risk is not transferred to those stakeholders without their knowledge.

There are other routine operational and administrative changes that occur within railway operations and these should be managed in accordance with the operator's management of change procedures, with no need to notify the ONRSR.

## 8. Review of a notification of change

The ONRSR will acknowledge receipt of a notification and assess whether the change meets the requirements for a notification of change (ie is within the scope and nature of the operator's accreditation, as specified in their notice of accreditation, and meets the requirements of regulation 9). If a variation of accreditation is required the ONRSR will contact the operator as early as possible (note that this will very likely impact planned change timeframes).

The ONRSR will also give regard to the safety risks of the change and whether the rail transport operator:

- > follows its risk and change management processes;
- > complies with the requirement to notify the ONRSR of certain changes to their safety management system; and
- > has considered the impact the change may have on others (including through consultation as appropriate).

On expiration of the notification period under regulation 9 the rail transport operator may implement the change as planned. However the ONRSR may still request information or undertake an audit or inspection at any point as part of its compliance and enforcement activities.

Note that a change in the Australian Company Number (ACN) constitutes a change of ownership (sale or transfer) of the rail operator. In this circumstance, the new owner is required to submit an application for accreditation to the ONRSR.

## 9. ONRSR response to a notification of change

In most cases the operator will not hear from the ONRSR after the notification has been acknowledged. The ONRSR will only contact the operator where further information is required to assess the extent of the change in relation to the scope and nature of accreditation or to confirm details of change and/or risk management processes.

Where further information is required this will be requested as early as possible within the notification period.

Compliance and enforcement activities will be instigated as per the *ONRSR Compliance and Enforcement policy* where the ONRSR believes there is a risk to safety or the operator fails to comply with notification requirements.

## 10. Ongoing compliance and enforcement

The ONRSR may conduct a compliance inspection or audit at any point to check that the rail transport operator has followed its change and/or risk management procedures.

The information gathered from notifications of change, applications for variation, requests for additional information or from inspections and audits will be used to improve the ONRSR's knowledge of that rail transport operator's operations and inform future actions.

For more information refer to the *ONRSR Compliance and enforcement policy*.

## Appendix 1: Overview for determining the regulatory requirements

